

STANDING ORDER 1-04
TIME STANDARDS FOR CASES FILED
IN THE PROBATE AND FAMILY COURT DEPARTMENT

Time Standards of the Probate and Family Court Department

PREAMBLE

The fair and efficient administration of justice requires that all cases and actions before the Probate and Family Court receive timely attention and action from the Court. This requires that the judicial system dispose of cases as expeditiously as is consistent with care, fairness and sound decisions. It is the responsibility of the Court to manage the process and disposition of the cases before the Court. These time standards are intended to provide the Probate and Family Court with recognized goals for the timely disposition of cases.

These time standards represent aspirational goals to measure the movement of cases in the Probate and Family Court. Each case is unique and the Judges must, consistent with the rules of court and statutes, exercise sound judgment in such a manner as to provide the parties with a fair opportunity to be heard and to allow the Court to achieve a reasoned disposition. Those individuals who appear before our Courts have distinct needs that must be addressed on an individual basis, case by case. These time standards preserve some discretion for judges to schedule individual cases according to the particular needs of the individuals involved.

Accordingly:

1. General Provisions

This Standing Order applies to all actions filed in the Probate and Family Court.

This Standing Order applies to all divisions.

The timing for the completion of the case, from filing to trial, settlement, or dismissal, shall be calculated from the date of filing the petition or complaint.

At time of filing, all cases shall be assigned to a caseflow track according to the type of case. Most cases shall be assigned to one of the following tracks; 3-6 months to trial, 8 months to trial, or 14 months to trial.

2. Track Assignment and Case Management Conference

- a. When the case is assigned to a track, the Plaintiff/Petitioner shall be provided with a Track Assignment and Scheduling Notice, except as outlined below, which includes an established motion or case management conference date. This established date shall be no later than one-hundred (100) days from the date of filing. This does not preclude the marking of an earlier hearing date for a motion, where appropriate.
- b. The Court may schedule conferences, including case management and pre-trial conferences, as well as trials, in its discretion. Any party to any matter filed in the Probate and Family Court may request a case management conference after service of the complaint or petition, with notice to the other side of said request.
- c. A Track Assignment and Scheduling Notice **shall not** be issued at the time of filing for cases assigned to the 3-6 Month Track: Probate Wills and Administration, Accounts, Conservatorship, Real Estate Sales, and Change of Name. If a timely objection is filed in a case initially assigned to the 3-6 Month Track, the Register shall re-assign the case to an 8 Month Track and issue to all parties a Track Assignment and Scheduling Notice with an established date for a case management conference.
- d. The Register shall send the previously issued Track Assignment and Scheduling Notice to the Defendant(s)/Respondent(s), except as set forth in the paragraph above, upon the timely filing of each appearance or the filing of the return of service, whichever occurs first.
- e. Initial Track Assignments shall be made automatically at time of case filing, according to the case type. A Judge, at any time, may change the track designation for a case and issue a new Track Assignment and Scheduling Notice.

3. Conduct of Case Management Conference

- a. Prior to the case management conference counsel and/or parties shall confer for the purpose of preparing a joint statement containing a proposed schedule of deadlines and dates through trial. If no agreement is reached on a schedule, each party shall individually submit a proposed schedule.

If a domestic violence restraining order (G. L. c. 209A) or a domestic violence protective order (G. L. c. 208) has been issued for one party against the other, then parties need not confer. The case management conference shall still be held. If both parties are represented, counsel shall confer.

- b. At a case management conference the court may:
 - (1) explore the possibility of settlement including but not limited to exploring the use of Alternate Dispute Resolution (ADR) processes;
 - (2) identify or formulate (or order attorneys or parties to formulate) the principal issues and disputes;
 - (3) prepare (or order attorneys or parties to prepare) a discovery schedule including discovery limitations and deadlines;
 - (4) establish deadlines for filing motions, including but not limited to motions for summary judgment and a time framework for their disposition;
 - (5) explore any other matters that the court determines appropriate for the fair and efficient management of the litigation;
 - (6) hear the case on an uncontested basis or hear the case if no appearance or answer is filed, after service, and there is no opposition.
- c. At the case management conference the next court date shall be assigned, unless a judgment is issued.
- d. Counsel and parties, or parties alone if not represented by counsel, shall be required to appear at the case management conference. The court may impose sanctions for failure to attend the conference without good cause or may hear the case as if it were uncontested.

4. Alternate Dispute Resolution Services

When appropriate, cases shall be referred to:

- a. Probation Officers for dispute intervention services in contested matters at pre-trial conferences, contempt proceedings, and motions seeking temporary orders; and
- b. Other approved providers of court connected dispute resolution services as defined in S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution.

5. Changes to Track Assignment and Extension of Time for Scheduled Events

- a. A party may file and serve a motion requesting a change in track assignment or extension of time for scheduled events. Changes in track assignment or extension of time for scheduled events shall be allowed only at the discretion of the Judge. A Probation Officer, in connection with an investigation, may file and serve on all parties a motion requesting a change in track assignment or extension of time for scheduled events.
- b. Motions to continue a trial may be allowed, only for good cause shown, with notice and hearing, in accordance with Mass. R. Dom. Rel. P. 40(b) and Mass. R. Civ. Proc.40(b).
- c. The party requesting the change of track assignment or extension of time and the reason therefor shall be noted on the record. All requests for extension of time shall include proposed future dates. No action shall be “continued generally.” Any extension of time granted shall be to a date and event certain.
- d. In cases involving allegations of a history of domestic violence, or a prior or current abuse prevention order, the Judge shall take into account the safety of victims and the reduction of conflict in considering any requests for changes in track assignment or extension of time for scheduled events.

6. Joint Requests to Continue Case Management Conference or Extend Time for Scheduled Events

- a. Parties engaged in alternative dispute resolution may request an extension of the case management conference by filing a joint motion, including affidavits attesting that the parties are engaged in alternative dispute resolution, the name of the alternative dispute resolution provider, the dates and number of sessions held and the dates and number of future sessions scheduled.
- b. All other joint requests shall be by written motion and include an affidavit stating detailed and specific reasons for the request. All motions shall include proposed dates for the rescheduling of the continued event. Joint motions shall be considered without in person hearing, unless otherwise ordered by the Court.

7. Assignment to Tracks:

- a. At filing, all Probate, Equity, Domestic Relations and Paternity cases (except Joint Petitions for Divorce and Modification of Child Support and Complaints for Contempt, which shall be heard as outlined in paragraphs 11 through 13) shall be assigned to a track according to the following chart.
- b. G. L. c. 209A Complaints for Protection from Abuse, cases concerning the Care and Protection of Children under G. L. c. 119, §23(A), G. L. c. 119, §23(C), and G. L. c. 210, §3, and Adoptions shall be heard as outlined below in paragraphs 14 through 18.
- c. Assignment to a track indicates the maximum amount of time in which a case should be tried, settled, or dismissed. Most cases should be tried, settled, or dismissed before the maximum time period of the track.
- d. There may be extraordinary cases which are not capable of being disposed of within the time frame set forth in their track designation.

	3-6 Month Track¹	8 Month Track	14 Month Track
	Probate of Wills and Administration of Estates	Complaint to Establish Paternity	Complaint for Divorce
	Conservatorship	Complaint for Custody, Visitation, and Support (Paternity)	Complaints in Equity
	Accounts	Complaint for Modification	Petitions to Partition
	All Other “Probate” except Guardianships	Probate-Guardianships	Other Domestic Relations Case Types
	Real Estate Sales	Complaint for Separate Support	
	Change of Name	Other Paternity Case Types	

¹As described in paragraph 2.(c) above, if a case assigned to this track becomes contested due to the filing of an appearance and, if required, objections, the Register shall change the track designation.

8. Track Assignment and Scheduling Notice:

The Register shall issue a “Track Assignment and Scheduling Notice” for each case, in the format specified by the Chief Justice of the Probate and Family Court, in accordance with the provisions of this paragraph and paragraphs 2.(c) and 11-18 of this Standing Order. The “Track Assignment and Scheduling Notice” shall reflect the time requirements for each track as outlined below. The “Track Assignment and Scheduling Notice” shall include the date for a motion hearing or case management conference. A pre-trial conference date shall be scheduled at the case management conference or motion hearing. A trial date shall be established at the pre-trial conference.

Event	Track 1	Track 2	Track 3
	3-6 month Track	8 month Track	14 month Track
Petition or Complaint Filed	DAY 0	DAY 0	DAY 0
Return of Service Filed	n/a	Summons: 45 days from date of issue Citation: 10 days after the return date	Summons: 45 days from date of issue Citation: 10 days after the return date
Answer/Appearance Filed	n/a	Summons: 65 days from date of issue	Summons: 65 days from date of issue
Divorce and Separate Support Mandatory Self Disclosure (Supplemental Rule 410), <i>Served on other party</i>	n/a	45 days from service of summons	45 days from service of summons
Case Management Conference or First Court Hearing	n/a	within 100 days of case filing	within 100 days of case filing
Investigations Complete	n/a	*	*
Discovery Complete	n/a	*	*
Pre-Trial Conference	n/a	*	*
Trial	*	*	*

*Deadlines for completion of discovery and investigations and dates for pre-trial conference shall be set at the first court hearing or case management conference. **Trial dates shall be set at pre-trial conference.**

9. Pre-Trial Conferences

- a. The pre-trial conference shall be conducted in accordance with Rule 16 of the Massachusetts Rules of Domestic Relations Procedure or the Massachusetts Rules of Civil Procedure.
- b. In scheduling a pre-trial conference the court shall issue a “Pre-Trial Notice and Order” in the format specified by the Chief Justice of the Probate and Family Court.
- c. If a case is not resolved at the pre-trial conference, an “Order After Pre-Trial Conference” shall be issued which shall include provisions specified by the Chief Justice of the Probate and Family Court, and may also include additional provisions at the discretion of the pre-trial Judge.

10. Sequential Trial Days

When trial dates are originally assigned, they shall be scheduled on days as close to sequential trial days as the calendar of the trial Judge permits. When trials are not completed in the number of days originally scheduled, the Court shall schedule the remaining trial days as soon as possible using the earliest available trial days, with the goal of minimizing intervals between trial days.

11. Track for Complaints for Contempt

At time of filing, a summons shall issue with the date for the contempt hearing. The hearing date shall be set for no later than twenty-eight (28) days from the date of filing.

12. Joint Petitions for Divorce Under G. L. c. 208, § 1A

All Joint Petitions for Divorce shall be scheduled for hearing within thirty (30) days of filing of all required documents.²

13. Joint Petition for Modification of Child Support Judgment

Pursuant to Probate and Family Court Supplemental Rule 412 and Protocol, these cases shall be decided on the pleadings without hearing, within fourteen (14) days of filing, unless otherwise ordered by the Court. If a hearing is ordered by the Court, the Court shall set the time and date for the hearing and shall notify the parties within fourteen (14) days of the filing of the joint petition.

²If a case is ready at filing, a hearing shall be scheduled within thirty (30) days. If a case is incomplete, e.g. missing certification of attendance at a Parent Education program, the case shall be scheduled for hearing within thirty (30) days of the date of filing all required documents.

14. G. L. c. 209A Complaint for Protection from Abuse

All proceedings pursuant to G. L. c. 209A shall be processed in accordance with the existing statutory time requirements and each order shall specifically state the next hearing date and expiration date of the order, unless the order is permanent. If the order is permanent, it shall so specify.

15. Complaints for Protection from Elder and Disabled Abuse, G. L. c. 19A, §20, G. L. c. 19C, §7

A hearing shall be held within fourteen (14) days of the filing of a petition. Emergency hearings may be held with at least twenty four hours notice to the elderly or disabled person. The court may dispense with notice upon finding that immediate and reasonable foreseeable physical harm to the individual or others will result from the twenty four hour delay and that reasonable attempts have been made to give such notice.

16. Track for Termination Petitions filed pursuant to G. L. c. 210, § 3 and Care and Protection Petitions filed pursuant to G.L. c. 119, § 23 C

- a. If the Petition is uncontested, due to the assent of all parties or completion of proper notice, the Register shall, within fourteen (14) days of the return date, notify the petitioners that the case is uncontested, and that the petitioners must, within thirty (30) days of said notification, present the petition for allowance. For cases filed under G. L. c. 210, §3, an adoption plan shall be filed, in accordance with Uniform Probate Court Practice X.
- b. If, by virtue of an appearance the case is contested, the Register shall issue a Track Assignment and Scheduling Notice for a case management conference to be held not more than thirty (30) days after the return date.
- c. At the case management conference, a pre-trial conference shall be scheduled for a date within seventy-five (75) days of the case management conference. At the pre-trial conference, a trial date shall be set for no later than one hundred twenty (120) days from the date of the pre-trial conference.

17. Track for Adoption Petitions

- a. If the Petition is filed as uncontested, due to the filing of necessary assents or termination decrees, and notice is not required, a hearing shall be scheduled within thirty (30) days of the filing of the Petition.³
- b. If a timely appearance is filed, a case management conference shall be set for thirty (30) days from the return date.
- c. At the case management conference, a pre-trial conference shall be scheduled for a date within seventy-five (75) days of the case management conference. At the pre-trial conference, a trial date shall be set for no later than one hundred twenty (120) days from the date of the pre-trial conference.

18. Petitions filed pursuant to G. L. c. 119, § 23(A), Voluntary Placement with Department of Social Services

At time of filing, all petitions filed pursuant to G. L. c. 119, §23(A) shall be scheduled for hearing within thirty (30) days.

19. Issuance of Temporary Orders

Temporary orders shall be issued as expeditiously as possible, but in no event more than fourteen (14) days from the conclusion of the hearing, or the receipt by the court of all written submissions. On motions for summary judgment, orders shall be issued within thirty (30) days of the conclusion of the hearing, or the receipt by the court of all written submissions.

20. Issuance of Judgment or Decree

Except as otherwise indicated in this Standing Order, or with notice to the Chief Justice of the Probate and Family Court, and counsel or parties, the judgment or decree shall be issued as follows:

<u>Trial Time</u>	<u>Entry of Judgment or Decree</u>
One day or less	Within 30 days of the conclusion of the trial
Two days	Within 60 days of the conclusion of the trial
Three to Seven days	Within 90 days of the conclusion of the trial
Exceeds Seven days	Within 120 days of the conclusion of the trial

³If a case is ready for hearing at time of filing, a hearing shall be scheduled within 30 days. If a case is uncontested at time of filing, but incomplete, the case shall be scheduled for hearing within thirty (30) days of the date of filing all required documents.